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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

SURGICAL INSTRUMENT SERVICE  
COMPANY, INC.,  
*Plaintiff,*

v.

INTUITIVE SURGICAL, INC.,  
*Defendant.*

Case No.: 3:21-cv-03496-AMO-LB

**JOINT STIPULATION AND ~~PROPOSED~~  
ORDER REGARDING PRETRIAL PROFFER  
RELATED TO DEFENDANT'S MOTION *IN*  
*LIMINE* NO. 1**

Judge: The Honorable Araceli Martínez-Olguín

Plaintiff Surgical Instrument Service Company, Inc. (“SIS”), and Defendant Intuitive Surgical, Inc. (“Intuitive”) (collectively, the “Parties”) hereby stipulate as follows and respectfully request that the Court endorse this stipulation with an order:

WHEREAS, on November 11, 2024, Intuitive filed its Motion *in Limine* No. 1 to Exclude Out-of-Court Hospital Statements, Dkt. 290, which motion SIS opposed;

WHEREAS, the Court heard argument on Intuitive’s Motion *in Limine* No. 1 during the Final Pretrial Conference on November 25, 2024;

WHEREAS, the Court entered a Minute Entry on November 26, 2024, ordering counsel to meet and confer to present by December 3, 2024 a timeline for the submission of a pretrial evidentiary proffer relating to the out-of-court statements that are the subject of Intuitive’s Motion *in Limine* No. 1, Dkt. 316;

WHEREAS, counsel for the Parties have conferred as directed and agreed on a timeline;

NOW THEREFORE, the Parties jointly submit the Proposed Order attached hereto as Exhibit A, which provides that:

1. SIS will file its pretrial evidentiary proffer regarding statements that are the subject of Intuitive’s Motion *in Limine* No. 1 by no later than December 11, 2024.

2. Intuitive will file its response to such proffer by no later than December 20, 2024.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: December 3, 2024

By: /s/ Richard T. McCaulley

Richard T. McCaulley (*pro hac vice*)

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*Attorneys for Plaintiff Surgical Instrument  
Service Company, Inc.*

Dated: December 3, 2024

By: /s/ Kenneth A. Gallo  
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**E-Filing Attestation**

I, Kenneth A. Gallo, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above have concurred in this filing.

/s/ Kenneth A. Gallo

# **EXHIBIT A**

~~PROPOSED~~ ORDER **AS MODIFIED** REGARDING PROFFER RELATED TO  
DEFENDANT'S MOTION *IN LIMINE* NO. 1

On November 11, 2024, Defendant Intuitive filed its Motion *in Limine* No. 1 to Exclude Out-of-Court Hospital Statements, Dkt. 290, which motion Plaintiff SIS opposed. On November 26, 2024, having heard argument on the motion during the Final Pretrial Conference, the Court directed SIS to make a pretrial evidentiary proffer relating to the statements challenged by Intuitive in its Motion *in Limine* No. 1.


Pursuant to the Parties' stipulated agreement, the Court hereby orders that:

1. SIS will file its pretrial evidentiary proffer regarding statements that are the subject of Intuitive's Motion *in Limine* No. 1 by no later than December 11, 2024.
2. Intuitive will file its response to such proffer by no later than **December 18, 2024 at 12:00 PM PST** ~~December 20, 2024.~~

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated December 4, 2024

BY THE COURT:

  
HON. ARACELI MARTINEZ-OLGUIN  
United States District Judge